IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 5378 (SS) of 2001
(Old No. 13531/1990)

Hem Chandra Lohani,
son of Sri Damodar Lohani,
R/o C/o Sri J.C. Joshi,
Tata Commercial Motor Kohli Building,
Bareilly Road, Haldwani,
Nainital. **.....Petitioner.**

Versus

1. State of U.P. through the Ministry of Industries and Labour Welfare, U.P. Shashan, Sachivalaya, Lucknow.
2. Trans Cable Limited, Kathgodam Nainital through its Managing Director.
3. General Manger, Trans Cable Limited, Kathgodam, Nainital.

.....Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri Jagdish Singh Bisht, holding brief of Sri Sharad Sharma, learned counsel for the petitioner and Sri H.M. Raturi, learned standing counsel for State of Uttarakhand on behalf of respondent no. 1. No one is present on behalf of respondents no. 2 and 3.

By means of this writ petition, the petitioner has prayed for the following reliefs:

a. Issue a writ order or direction in the nature of Mandamus directing the respondents to reinstate the petitioner back in service and award him all service benefits that would have accrued to the petitioner, treating him to be in continuous active service from the date of appointment.

b. *Issue a writ order or direction in the nature of Mandamus directing the respondents to pay arrears including salary increments and all other such benefits in view of the reinstatement of the petitioner.*

c. *issue any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case to meet the ends of justice.*

d. *award the cost of the writ petition to the petitioner.*

The stand of the petitioner is that petitioner was appointed as Lab Assistant in Trans Cable Limited, Kathgodam, (an undertaking of U.P. Government) vide order dated 01.09.1979. Petitioner was falsely implicated in a criminal case, registered under section 302 IPC and he was sent to jail after trial. Petitioner was convicted by the Sessions Judge, Almora vide judgment and order dated 18.12.1987 and capital punishment was awarded to him. Respondents dismissed the petitioner from service with effect from 18.12.1987 on account of his conviction in criminal case which is clear from Annexure No. 2 and 3.

From perusal of Annexure nos. 2 and 3 it is clear that the petitioner was dismissed form service only on account of his conviction by Sessions Judge in Trial No. 43 of 1986 under section 302 and 201 IPC.

Petitioner preferred appeal against the judgment and order dated 18.12.1987 before Allahabad High Court and Allahabad High Court vide judgment and order dated 02.02.1989 acquitted the petitioner under section 302 and 201 IPC. Further, he was directed to be released unless he was wanted in any other case.

After release petitioner requested the respondents to reinstate him in service as dismissal order was passed only on the ground that he has been convicted. Nowhere in the writ petition it is stated by the petitioner whether any SLP against the order dated 02.02.1989 has been filed by the respondents in the Hon'ble Supreme Court or not?

Petitioner has made several representations to the respondents, however, no heed was paid by the respondents to take decision on the representation of the petitioner.

In case, no SLP has been filed or if filed that has been decided in the favour of the petitioner, petitioner may make fresh representation before respondents no. 2 and 3 for his reinstatement in the service within a period of three weeks from today and it is expected from respondents no. 2 and 3 to take decision on the representation of the petitioner, if moved by the petitioner within a period of three months from the date of production of certified copy of this order along with representation.

With this direction, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J)

May 09, 2007
SKSharma